

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DUSTIN ERWIN,
Plaintiff

v.

CHRISTOPHER MCDERMOTT,
DARVIN ANDERSON,
THE CITY OF BROCKTON, and
FOXY LADY, INC.
Defendants

C.A. No. 1:11 CV 11328

AFFIDAVIT IN SUPPORT OF FOXY LADY, INC.'S
MOTION FOR SUMMARY JUDGMENT

My name is Thomas A. Tsoumas, and being under oath, I, on the basis of personal knowledge, depose and say as follows:

1. I am the president of an inactive but not dissolved Massachusetts corporation known as Foxy Lady, Inc., whose business address is 20 Wayside Lane, Canton, Massachusetts.

2. Defendant Foxy Lady, Inc., has never directly or indirectly as, for example, though a subsidiary, including in the word “subsidiary” any corporation or noncorporate business entity such as a limited liability company, general or limited partnership, or sole proprietorship, owned, operated or managed any business in the City of Brockton whether at 265

North Pearl Street or anywhere else for that matter any business in the Commonwealth of Massachusetts.

3. Neither I nor any officer or shareholder of Defendant Foxy Lady, Inc., owns any interest, direct or indirect, as, for example, through a subsidiary, including in the word "subsidiary" any corporation or noncorporate business entity such as a limited liability company, general or limited partnership or sole proprietorship, in the premises or business operated at said 265 North Pearl Street, nor have any of them ever or had any right to manage or control said business.

4. There are no agreements or other arrangements that create any principal-agent relationship between Defendant Foxy Lady, Inc. and the owner or the management personnel of the Brockton nightclub known as The Foxy Lady.

Signed under penalties of perjury.

A handwritten signature in black ink, appearing to read "Thomas A. Tsoumas". The signature is fluid and cursive, with the first name "Thomas" being more prominent than the last name "Tsoumas".

THOMAS A. TSOUMAS

CERTIFICATE OF SERVICE

I, David Berman, counsel for Defendant *The Foxy Lady*, Inc. above named certify that on **January 18th 2012**, I caused a copy of the within *Affidavit in Support of Defendant Foxy Lady, Inc.’s Motion for Summary Judgment* to be served via electronic transmission upon:

Robert S. Sinsheimer, BBO No. 464940 (rsinsheimer@sinsheimerlaw.com)
Lauren Thomas, BBO No. 667973 (lthomas@sinsheimerlaw.com)
Sinsheimer & Associates
92 State Street, 9th floor
Boston, Massachusetts 02109

and

Katherine McNamara Feodoroff, BBO No. 657377 (kfeodoroff@cobma.us)
Assistant City Solicitor
Philip C. Nessralla, Jr., BBO No. 369380
City Hall
45 School Street
Brockton, Massachusetts 02301

David Berman, Esquire

18th day of January 2012
[10]. Erwin Affidavit